



# LYTTON RANCHERIA • Lytton Band of Pomo Indians

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## **TESTIMONY OF MARGIE MEJIA CHAIRWOMAN OF THE LYTTON BAND OF POMO INDIANS OF THE LYTTON RANCHERIA ON THE PROPOSED REGULATIONS FOR CLASS II CLASSIFICATION STANDARDS**

**Presented to the National Indian Gaming Commission**

**September 19, 2006  
Washington, D.C.**

Good morning Chairman Hogen and Commissioner Choney, I am Margie Mejia, Chairwoman of the Lytton Band of Pomo Indians of the Lytton Rancheria. Thank you for inviting me to participate on this panel concerning such an important topic.

I have served as Chairwoman of the Lytton Band since 1995. In addition, I am the Chief Executive Officer of Casino San Pablo. During my tenure as Tribal Chairwoman, I have dedicated myself to developing the Tribe's businesses, investments, infrastructure (including, among other things, the development of health, environmental and housing plans) in an effort to improve life for the Lytton people. In addition, I currently sit on the Board of Directors of the Sonoma County Indian Health Project. From 1998 to 2005, I served on the Indian Health Service California Area Office Advisory Committee. Prior to being elected Tribal Chairwoman, I served as Vice Chair of the Bureau of Indian Affairs Central California Policy Committee and worked as a congressional staff assistant.

The Lytton Tribe has approximately 253 enrolled tribal members, over fifty percent (50%) of which are children. Approximately fifteen percent (15%) of the Tribe's members are homeless, while nearly seventy five percent (75%) of the members live in substandard housing. Almost half of the adult members are unemployed and live at or near poverty levels. Understandably, with these kinds of statistics, it is vital that Lytton be able to pursue viable economic development to allow it to assist its members. As a newly restored Tribe, which lost its reservation, the only feasible economic development resource available to the Tribe at this time is gaming.

The Tribe currently operates a Class II gaming facility located in San Pablo, California, which is approximately 20 miles north of San Francisco. Unfortunately, the Tribe has been unable to obtain a Compact with the State of California. Despite good faith negotiations by the Tribe with the State of California, the State Legislature refused to ratify the Tribe's compact. Thus, the Tribe is permitted to conduct only Class II

gaming. As of today, the Tribe's Casino has 937 electronic bingo games, all of which are manufactured by IGT.

Since opening the doors to its Casino, the Tribe has been able to institute programs to benefit its tribal members and help raise them out of the poverty and unemployment that they have faced throughout their lifetimes. Among the programs developed by the Tribe to benefit its members are: childcare, scholarships for vocational and adult education, and a medical assistance program designed to cover medical costs not covered by insurance or other programs. The Tribe is also in the process of developing a program to provide its seniors with in-home assistance. In addition, the Tribe has been able to provide small per capita distributions to its tribal members to further assist them with living expenses.

In addition to providing the Tribe with a means to improve the lives of its tribal members, the Casino also provides the Tribe with the financial resources to assist the City of San Pablo and its citizens. The Casino provides approximately 500 much-needed jobs to the local community. The majority of these jobs are non-professional positions. The ability to provide the local community with these job opportunities is immensely important given that the City of San Pablo is an impoverished area. The Tribe has also been able to provide significant financial support to the City of San Pablo to assist with law enforcement and to provide programs for the City's neediest citizens.

If the Classification Standards are adopted as currently written, all of the Tribe's currently acceptable electronic bingo games would be prohibited, requiring the Tribe to replace all of its games. Because the Tribe operates only Class II devices, the proposed Classification Standards would effectively shut down the Tribe's Casino. Obviously, such result would have a devastating economic impact on the Tribe and the surrounding community because the Tribe would no longer have the financial means to provide the above-referenced programs or monetary aid and 500 jobs would be lost.

The Tribe is concerned that the NIGC has not considered the economic impact the Classification Standards will have on Tribes, particularly Tribes such as Lytton, who are permitted to operate only Class II bingo devices. The Tribe is also concerned that the NIGC has not thoroughly considered the feasibility of designing a machine capable of satisfying the proposed Classification Standards.

The NIGC cannot deny the profound impacts to Indian Country that will occur if the Classification Standards are passed as currently drafted. The impacts will fall especially hard on Tribes such as Lytton that are authorized to engage only in Class II gaming. IGRA was enacted to "provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency and strong tribal government." 25 U.S.C. §2702(1). By outlawing all of the Tribe's existing machines, the Classification Standards will produce the opposite effect. Rather than promoting tribal economic development and self-sufficiency, the Classification Standards will result in a severe negative economic impact on the Tribe.

As the Commission is aware, the heart of the gaming industry is entertainment. This means that it is critical for tribes to offer their patrons games that are appealing and entertaining. To provide this excitement and entertainment, the Tribe must have the flexibility to offer its patrons variety to ensure that each player is able to find a machine

that satisfies that player's comfort and enjoyment needs. In this regard, the ability to offer entertaining devices with varying game themes, denominations, and payback percentages is of particular importance to the Tribe because the Tribe's gaming operation is not merely supplemented by a handful of Class II devices, but is entirely dependent on such devices. Under the proposed Classification Standards, the Tribe would no longer be able to offer this variety.

Further, while the current play cycle of the devices which Lytton maintains in its facility is approximately four to six seconds, the effective play cycle under the proposed Classification Standards is ten to sixteen seconds - at least double the current play cycle. The practical effect of a longer play cycle, aside from the potential for patron boredom, is less wins per unit which thus effects the profitability of the enterprise. The potential effect, related to patron boredom, is the possibility that the slowness and lack of variety will drive patrons away from Lytton's casino to a Class III facility a couple of hours away.

The Tribe believes that many portions of the proposed Classification Standards do nothing to clarify the distinction between Class II and Class III devices and in many instances serve only to create additional uncertainty and complicate the regulation of Class II gaming. Indeed, the one and only thing that the proposed Classification Standards will do is ensure that most, if not all, of the Class II devices currently in operation, including those currently approved by the NIGC, would no longer be acceptable. This would mean that the Tribe would have to replace all of its Class II devices. The only allowable replacement devices under the proposed Classification Standards would be exceedingly slow, less aesthetically pleasing, less enjoyable, and thus, far less appealing to patrons and dramatically less profitable. The resultant effect would be a severe economic hardship on the Tribe given that its Casino operates only Class II devices.

Moreover, it is the Tribe's belief that some of the requirements contained in the Classification Standards are not technically feasible and, even if they are, the extent of design modifications necessary to meet the proposed Classification Standards would be so enormous that it would take the device manufacturers a significant period of time to design and manufacture completely new devices. This significant time period would be extended greatly by the game certification requirements of the proposed Classification Standards. Such activities would take a significantly longer period of time to complete than the six-month timeline proposed by the proposed regulations. In the meantime, the Tribe would be unable to operate its current Class II devices and would have to invest significant amounts of money for brand new devices, which would result in a catastrophic loss of income to the Tribe. Thus, if nothing else, the NIGC must extend the grandfather period in the Classification Standards to allow a reasonable time period to develop and test viable alternatives so that Tribes will not be forced to suspend the operation of Class II gaming.

Given the above, the Tribe urges the NIGC to work with the manufacturers of these devices to develop a workable prototype prior to implementing the Classification Standards. Thank you for the opportunity to present the Lytton Tribe's views on this matter.